

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

IN RE: Charles Richard Robb

CHAPTER 13 CASE # 22-02410 JAW

DENISE A. MCLAUGHLIN

Plaintiff

v.

ADV # 22-00004 JAW

CHARLES RICHARD ROBB

Defendant

Motion to Dismiss

Defendant, Charles Robb (“Debtor”), pursuant to Federal Rule of Bankruptcy Procedure 12(b), moves this Court to dismiss this proceeding on two grounds, (1) failure to properly serve the Complaint, and (2) failure to state a claim for which relief can be granted. Pursuant to Miss. Bankr. L.R. 7012(1) and Miss Bankr. L.R. 7056-1(1), Debtor states the following pertinent factual allegations, all taken from the Complaint:

1. Debtor may be served, pursuant to Fed. R. Bankr. P. 7004(1), by mailing a copy of the Summons and Complaint [...]. *Adv. Dkt. 1*, paragraph V.
2. Debtor filed a Voluntary Petition for Relief under Chapter 13 of Title 11 of the United States Code (the “Code”) on November 16, 2022 [...]. *Adv. Dkt. 1*, paragraph IV.
3. Plaintiff seeks relief under 11 U.S.C. §523(a)(6). See *Id* at paragraph I.

As explained in the Memorandum Brief attached to this motion, (1) Plaintiff failed to serve the Complaint as they did not properly serve the Debtor’s attorney and (2) the Complaint fails to state a claim for which relief can be sought because §523(a)(6) is not excepted from discharge under a Chapter 13 bankruptcy. Accordingly, Debtor asks that this motion to dismiss be granted.

Respectfully submitted,

/s/ Rachel Coxwell

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April 10, 2023

Certificate of Service

I hereby certify that I have this day served via ECF electronic filing and/or United States mail, postage prepaid, a true and correct copy of the above pleading(s) to the following:

Hon. Ed Lawler Jr.
McKay Lawler Franklin & Foreman PLLC
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/s/ Rachel Coxwell
Rachel A. Coxwell

April 10, 2023